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November 5, 2015

To: Supervisor Michael D. Antonovich, Mayor
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From: Sachi A. Hamai 
Chief Executive Officer

RESPONSE TO REQUEST TO IDENTIFY HEALTH INSURANCE OPTIONS FOR PROPOSITION A CONTRACTORS UNDER THE LIVING WAGE ORDINANCE (AGENDA OF JULY 14, 2015, ITEM NO. 5)

This memorandum is in response to a portion of the July 14, 2015, motion by Supervisor Mark Ridley-Thomas which specified that the Chief Executive Office (CEO) is to work with the Auditor-Controller, the Director of Internal Services Department (ISD), the Director of Health Services (DHS), and other affected departments, to consult with Proposition A contractors and representatives of contract workers subject to collective bargaining agreements. The CEO was directed to: 1) identify issues associated with the Affordable Care Act (ACA) as it relates to the Living Wage Ordinance, 2) identify options for and costs associated with providing group health insurance coverage to all Proposition A contract workers, and 3) provide the Board of Supervisors (Board) with a recommendation for their immediate resolution. The other directives of the Board motion will be addressed in a separate response at a later date.

Discussions With Proposition A Contractors

On August 26 and August 27, 2015, the Benefits and Compensation Division of the CEO, Auditor-Controller, and ISD met with groups of Proposition A contractors and their representatives to discuss the living wage ordinance and the issues that they experienced with compliance to the ACA in an open forum format.

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Seventy-three percent of all Proposition A contractors employ over 50 employees, and thus the majority currently offer their employees health insurance as required by the Affordable Care Act. Most of the contractors who are currently providing health insurance have stated that they are providing silver level health insurance plans. (The minimum requirement to comply with the ACA is bronze level health insurance. However, most of those contractors who attended our meeting provide a more generous plan.) Many contractors have expressed that they struggle with administration of health insurance and providing plans that balance affordability with adequate benefits coverage for their employees. The cost for providing health insurance coupled with the requirement to pay higher wages under the new living wage ordinance will become a financial burden for many of our contractors.

Options In Providing Health Insurance Plans

CEO informed all meeting attendees that the County was in the process of researching and considering various alternatives for group health insurance plans for the Proposition A contractors. The following options were considered:

1. ***Health Insurance under the County's Cafeteria Plans.*** The CEO explored the prospect of adding the Proposition A contractors to the County's group health plan under the cafeteria plan benefits. Contractors would enroll under the represented plans, Choices or Options or the non-represented plan MegaFlex.
2. ***Expansion of the Personal Assistance Services Council (PASC)-In Home Supportive Services (IHSS) Los Angeles (LA) Care Health Plan.*** The CEO has contacted the Department of Health Services and the Department of Public Social Services to explore the possibility of extending the PASC-IHSS LA Care Health Plan that is offered with the In-Home Supportive Services Program.
3. ***Private Health Plan Sponsored by the County.*** The CEO has contacted its benefits consultant, Aon Hewitt (Aon), about setting up a private group health exchange plan for all Proposition A contractors.
4. ***Small Business Health Options Program (SHOP).*** Aon has suggested the SHOP program as an option. In our meetings, a few of the contractors indicated that they had less than 50 employees and operated as small businesses. Such contractors may qualify for SHOP and find it a viable option.

5. **Covered California Marketplace Exchange.** The exchange provides an alternative for contractors to consider as it offers various affordable health insurance options through Covered California. These options are supplemented by federal subsidies to provide additional financial relief for those who qualify.

Other Issues to Consider with Providing Group Health Coverage

Providing health coverage solely for Proposition A contractors with County contracts is administratively problematic for the various vendors. The majority of the companies with County contracts have multiple contracts with other entities. It is also problematic for contractors to offer a separate benefits package to select employees with County contracts as other employees may view this as disparate treatment.

According to the County's benefits consultants and actuaries, providing health insurance may actually result in a net salary reduction for some of the County's Proposition A contractors who currently are not offered health insurance by their companies. Companies with less than 50 employees are exempt from the ACA employer requirement to provide health insurance as a small business. Based on Proposition A salaries, a significant number of these contract employees would qualify for a substantial subsidy, if they chose to purchase coverage through the Marketplace Exchange via www.coveredca.gov. If health insurance is provided to such contract employees through their employer, they would no longer qualify for the subsidy. Health insurance offered by their employers may be more in net cost than what would be paid through the marketplace exchange.

Analysis

Health Insurance Under the County's Cafeteria Plans

Based on consultation with the County's legal counsel, this option is not viable due to Employee Retirement Income Security Act of 1974 (ERISA) regulations. Contract employees are not County employees and thus are not eligible to join a public sector group health plan.

Expansion of the PASC-IHSS LA Care Health Plan

The CEO has provided DHS with demographic data of approximately 50 percent of all Proposition A contract workers which included gender, age, and geographic information. This data was provided in order for DHS to determine the feasibility of modifying the PASC LA Care Health Plan for all Proposition A contractors to offer this insurance

program to their workers. DHS has determined that such a health plan would not be practical given:

- A. Provider network;
- B. Potential high costs due to out-of-network utilization;
- C. Clinical capacity constraints on DHS' other managed care lines of business;
and
- D. The unique funding mechanism for the PASC-IHSS plan.

Based on demographic information, the offering of a narrow network health plan is problematic as many Proposition A contractors do not live within 15 miles of a DHS primary clinic as required by state law. According to DHS, this may result in state sanctions and a higher program cost as most Proposition A workers would seek out-of-network services. Inclusion of such employees may also jeopardize DHS' ability to meet clinical capacity standards for such a program as well as MediCal. Further, the PASC LA Care program has a unique funding mechanism (by Federal government, State, and County of Los Angeles at 54 percent, 30 percent, and 16 percent, respectively) that could not be utilized for providing Proposition A contract workers health coverage. The County or another sponsor would need to bear the entire cost for the inclusion of Proposition A contractors.

Private Health Plan Sponsored by the County

This option would require the County to establish a separate health plan in order to be able to offer insurance to non-County employees. However, in doing so, the County would be required to offer health insurance to all small employers in Los Angeles County to comply with the ACA. "Health plans and health insurers (collectively, "issuers") must offer, market, and sell all non-grandfathered health benefit plans, for policy years beginning on or after January 1, 2014, to all eligible small employers in the issuer's service area." The County would in this case be considered an "issuer."

Additionally in 2016, the ACA expands the definition of a small employer group market to include employer groups of up to 100 employees. With this expansion, the County would be required to offer small group plans to all employers with less than 100 employees.

Aon estimates the cost of creating an insurance company for contractors only to be anywhere between more than \$12 million to \$41 million to cover the cost of actuarial fees and financing the required surplus for insurance policies. This estimate does not account for ongoing and initial start-up costs for administration, network development,

underwriting, and sales and marketing, which is estimated at \$200k to \$1 million annually by itself. Based on these figures, the creation of a separate health plan specifically for the County's Proposition A contractors is not fiscally viable.

Small Business Health Options Program (SHOP)

This is a health insurance marketplace developed for businesses with 1 - 50 employees. To participate in SHOP, employers must contribute a minimum of 50 percent of the employee only premium amount of their selected anchor plan. Small business owners select the level of coverage they want to offer their employees, and within that level, the employees may choose which plan best suits them. Administration is handled by Covered California and the small business makes only one payment for employee premiums per month. There must be one common law employee (or W-2 wage earner) to constitute the group as a small business and to qualify for SHOP. Employers may receive a tax credit if: 1) they have less than 25 full-time employees for the tax year, 2) the average annual wages paid are less than \$50,000 per full-time employee, and 3) 70 percent of the full-time employees enroll in coverage through SHOP.

Covered California Marketplace Exchange

The meetings with County contractors revealed that the majority of contractors currently employ more than 50 employees, and already provide health insurance to their employees as required by the ACA.

With the Covered California Marketplace exchange, contractors have up to 25 different plans to choose from across the various tiers (bronze through platinum) in the Los Angeles area. Covered California can facilitate guided access to enrollment and administration of the individual market in order to support contractors' understanding and decision making. This avenue allows for a broader range of lower-cost options and contractors can customize their coverage to their specific needs. Contractors may also be able to access direct federal subsidies based on their incomes, and indirect subsidies based on favorable age rating.

Recommendation

After various discussions with Aon, the Department of Health Services, and the Internal Services Department, the CEO has carefully considered the various options identified for providing group health insurance coverage to its Proposition A contractors and recommends the SHOP for small business contractors and the Covered California marketplace exchange for larger employers without their own insurance offerings.

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These two options provide health coverage that can be tailored to each contractor's needs. Utilizing Covered California may assuage the issues of administration as identified by our contractors as a challenge in providing coverage. The other options considered are not fiscally or legally viable to implement.

If you have any questions or need additional information, please contact me, or your staff may contact Maryanne Keehn at (213) 974-0470, or via e-mail at mkeehn@ceo.lacounty.gov.

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